

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

KAREN STEVENS, Individually and as  
Mother, Guardian and Next Friend of  
MADDY OLIVIA STEVENS and FENNER  
ZIMBLE STEVENS, Minors,

Plaintiffs,

v.

ELI LILLY AND COMPANY,

Defendant.

CIVIL ACTION No. 03-CV-12346 (PBS)

**DEFENDANT ELI LILLY AND COMPANY'S**  
**MOTION FOR PARTIAL SUMMARY JUDGMENT**

Eli Lilly and Company (“Lilly”) moves for partial summary judgment against minor plaintiffs Fenner Zimble Stevens and Maddy Olivia Stevens because Massachusetts courts have never, and in all likelihood, will never recognize “third generation” product liability claims. In support of its motion, Lilly adopts and incorporates herein its accompanying Memorandum of Points and Authorities (including Statement of Undisputed Facts), and the Affidavit of Brian L. Henninger.

WHEREFORE, Lilly moves for the entry of partial summary judgment in its favor.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to LCvR 7.1(D), Lilly requests a hearing on its Motion for Partial Summary Judgment.

Respectfully submitted,

ELI LILLY AND COMPANY

/s/ James J. Dillon

James J. Dillon

Brian L. Henninger

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Attorneys for Defendant

Eli Lilly and Company

Dated: August 10, 2004